IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 23436 of 2007(M)

OA.69/2004 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

SAJI THOMAS, AGED 36 YEARS,
S/O.P.J.THOMAS,PLOT.NO.116,43E,
GCDA COLONY,THOTTAKKATTUKARA,ALUVA-08,
ERNAKULAM DISTRICT.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. THE FEDERAL BANK LTD, HAVING ITS REGISTERED OFFICE AT ALUVA, REPRESENTED BY ITS CHAIRMAN & MANAING DIRECTOR.

2. THE BRANCH MANAGER,FEDERAL BANK LIMITED, THRISSUR BRANCH,M.O.ROAD, THRISSUR.

3. THE DEBTS RECOVERY TRIBUNAL, (KERALA & LAKSHADWEEP),ERNAKULAM.

4. THE RECOVERY OFFICER, DEBTS RECOVERY TRIBUNAL, ERNAKULAM, K.S.H.BUILDINGS, PANAMPILLY NAGAR, ERNAKULAM.

R1 AND R2 BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF THE STATEMENT OF ACCOUNTS FOR THE PERIOD FROM 7.3.2001 TO 5.2.2004

EXT.P2 PHOTOCOPY OF O.A.NO. 69/04 (WITHOUT EXHIBITS) FILED BY THE FIRST RESPONDENT BEFORE THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P3 PHOTOCOPY OF THE WRITTEN STATEMENT FILED BY PETITIONER IN O.A.NO. 69/04 BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P4 PHOTOCOPY OF THE PROOF AFFIDAVIT FILED BY PETITIONER IN .A.NO. 69/04 BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P5 PHOTOCOPY OF THE FINAL ORDER DATED 3.7.2007 IN O.A.NO. 69 OF 2004 BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.'
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EXT.P6 PHOTOCOPY OF THE NOTICE OF DEMAND NO. DRC.2665/FB/TSR DATED 10.5.2007 ISSUED BY FOURTH RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 23436 OF 2007

Dated this the 10th day of August, 2007

JUDGMENT

Heard counsel for the petitioner and Sri. George Varghese counsel appearing for the first respondent-Bank. The amount sought to be recovered is not in dispute. However, petitioner has offered to settle liability under OTS scheme and therefore the prayer is only for stay against sale of property by the recovery officer for reasonable period within which time petitioner has undertaken to settle liability. Counsel for the Bank submitted that petitioner has not come forward with any concrete proposal to consider the amount of incentives under OTS scheme. According to him incentives under OTS scheme will depend upon the terms offered by the petitioner, particularly the time frame within which payment is offered. Petitioner has undertaken to pay Rs. 5 lakhs around the end of this month. In the circumstances, W.P. is disposed of directing the petitioner to pay Rs. 5 lakhs on or before 10.9.2007 and file application stating the time within which petitioner will make balance payment exclusive of incentives to be granted by the

Bank depending upon the offer made by the petitioner. I am sure Bank will grant incentives if petitioner offers to make payment within a reasonable time. There is nothing wrong in permitting the petitioner to arrange for sale of full or part of the mortgaged property by himself and permit execution of sale deed after settling the liability under OTS scheme and after release of title deeds by the Bank. Fourth respondent is directed to withhold recovery proceedings till 10.9.2007 and if petitioner makes payment of Rs. 5 lakhs and makes application for OTS benefit, Bank will communicate OTS benefits. Recovery Officer will withhold recovery proceedings for another two months thereafter. Sale will be effected only after Bank informs the second respondent that petitioner failed to settle liability within the time granted by the Bank under the OTS scheme.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge